## REMARKS

The Office Action mailed December 4, 2006 has been received and reviewed. All claims currently under consideration stand objected to or rejected. The application is to be amended as previously set forth. All amendments and claim cancellations are made without prejudice or disclaimer. No new matter has been added. Reconsideration is respectfully requested.

**A. Restriction:**

The early restriction requirement was made final. Applicants have amended the method claims to depend upon the elected product claims and request rejoinder upon allowance of the product claims.

**B. Declaration:**

The Declaration was objected to. Applicants are in the process of obtaining a Supplemental Declaration, and applicants' representatives will promptly provide it to the Office upon receipt of the executed Supplemental Declaration.

**C. Priority:**

Applicants are in the process of obtaining certified copies of the priority documents, and applicants' representatives will promptly provide it to the Office upon receipt.

**D. IDS:**

EP 0 971 233 A1 was not considered because it was in the French language. Submitted herewith in a Supplemental Information Disclosure Statement, is, *inter alia*, what is believed to be the U.S. Patent & Trademark Office equivalent, U.S. Patent 6,534,279 B1.

**E. 35 U.S.C. § 112, 2nd ¶:**

Claims 12 through 17 were rejected as assertedly being indefinite. Claims 13 through 16 have been canceled, and their elements incorporated into the independent claims, thus mooting the rejection as to the. Although applicants do not believe the claims to be indefinite, in order to expedite prosecution of the instant application, applicants have amended the remaining claims

and request that the rejections be withdrawn.

Specifically, remaining claims 12 and 17 were rejected for use of "suitable" terminology, and "at least" was considered redundant with the open transition language "comprising". Applicants have amended these claims to remove the rejected terminology.

Claim 17 was rejected for lacking proper antecedent basis. The claim has been amended, which amendments should overcome the rejection.

**F. 35 U.S.C. § 102(b):**

Claims 12 through 14 and 17 were rejected as assertedly being anticipated by Golbus. Applicants have amended remaining claims 12 and 17 to identify that the components include carbonic anhydrase B, which is not believed to be disclosed by Golbus, and accordingly request that the rejections be withdrawn.

**F. 35 U.S.C. § 103:**

Claims 15 and 16 were rejected as assertedly being made obvious by Golbus and Taniguchi et al. Applicants have amended remaining claims 12 and 17 to include the elements of claims 15 and 16, and traverse the rejection.

It is respectfully submitted that the claimed kit and reagent mixture are not obvious in view of the combination of Golbus and Taniguchi since, *inter alia*, the references do not disclose each and every element of the claims.

Golbus discloses that maternal or mature cell markers can be included in their method to enrich for fetal cells (column 9, lines 16-29). CD44 is suggested by Golbus as a suitable mature or maternal cell marker (column 10, lines 36-44). It is noted that CD44 is not an antibody directed toward carbonic anhydrase U. The present invention discloses that the combination of an antibody directed toward hemoglobin F and an antibody directed to carbonic anhydrase B is particularly effective (see paragraph **[0014], [0053]** and the examples therein), This combination allows for a very accurate assessment of fetal cells, when compared to the use of an anti Hemoglobin F antibody alone and also when compared to other adults markers.

Taniguchi, although testing for the presence of carbonic anhydrase B does not disclose the use thereof for the detection of fetal cells and thus does not teach the kits, reagents, or their

use. In fact, the Tanaguchi reference teaches away from the present claims as it discloses that the expression of carbonic anhydrase R is not constant and depends on environmental factors such as the presence of lead. This disclosure would direct the artisan away from carbonic anhydrase B as a good candidate to include in a test of the invention as variation is not desired in a test. The artisan would therefore turn to the specific marker (CD44) mentioned in the Golbus reference and not arrive at the diagnostic test or diagnostic kit of the present invention.

If questions should remain after consideration of the foregoing, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,

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